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\*\*E-filed 2/24/06\*\*

Attorneys for Plaintiff DIRECTV, INC.

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SAN JOSE DIVISION**

DIRECTV, INC., a California corporation,  
  
 Plaintiff,  
  
 vs.  
  
 RICHARD BRESLIN, et al.,  
  
 Defendants.

Case No. CV-03-4173 JF

Hon. Jeremy Fogel

**REQUEST FOR VOLUNTARY DISMISSAL  
 OF DEFENDANT KELSON TRAN;  
 [PROPOSED] ORDER THEREON**

Pursuant to Fed. R. Civ. P. 41(a)(2), Plaintiff DIRECTV, Inc. ("DIRECTV") hereby respectfully requests that the Court enter an Order dismissing the above-captioned action with prejudice as to Defendant Kelson Tran ("Defendant"). This request is made on the grounds that Defendant and DIRECTV have entered into a settlement agreement wherein DIRECTV agreed to voluntarily dismiss this action against Defendant, each party to bear its/his own attorneys' fees and costs incurred in this action to date.

Although on August 3, 2004 this Court dismissed without prejudice DIRECTV's claims against Defendant following Judge Ware's Order Regarding Limited Assignment to Determine Issues Regarding Joinder of Defendants and Showing Needed to Establish a *Prima Facie* Case Under Statutory Claims, DIRECTV is obligated under the terms of the settlement agreement to take all reasonable steps to obtain a dismissal of this action with prejudice against

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1 Defendant, each party to bear its own costs and attorney fees. DIRECTV files this Request in  
2 fulfillment of that obligation.

3 Defendant answered the Complaint on or about January 26, 2004. DIRECTV,  
4 therefore, cannot unilaterally voluntarily dismiss this action against Defendant absent a Court  
5 order. Fed. R. Civ. P. 41(a). Accordingly, DIRECTV respectfully requests the entry of such an  
6 order dismissing Defendant with prejudice.

7 DATED: February 21, 2006

Respectfully Submitted,

8 BUCHALTER NEMER  
9 A Professional Corporation


10 By: \_\_\_\_\_ /s/ Brandon Q. Tran  
11 Brandon Q. Tran  
12 Attorneys for Plaintiff DIRECTV, Inc.

13  
14 **ORDER**

15 Having read the foregoing Request for Voluntary Dismissal of Defendant  
16 Kelson Tran filed by Plaintiff DIRECTV, Inc., and such other pleadings and papers deemed  
17 appropriate by the Court, and GOOD CAUSE appearing therefore, the Court ORDERS as  
18 follows:

- 19 1. This action is hereby dismissed with prejudice as against Defendant Kelson Tran;  
20 and  
21 2. Each party shall bear its/his own attorneys' fees and costs incurred in this action to  
22 date.

23 DATED: 2/23/06

24   
25 Honorable Jeremy Fogel  
26 United States District Court  
27 Northern District of California  
28

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